Allegations in respect of Individual Officers.

MR. SPEAKER.— As all the Hon'ble Members know, I had promised the House that I would make a statement regarding the allegations made in respect of individual officers.

On the 26th instant when supplementaries were being put with respect to question No. 1841, one Hon'ble member tried to ask if Government were aware that a particular officer was corrupt. The Speaker intervening ruled that he would not allow any allegations against individual officers to be made on the floor of the House. He observed that he had consistently adopted this rule of procedure of not allowing allegations to be made against the officers. Hon'ble member Sri H. M. Channabasappa stated that this ruling would affect the rights that members possessed to put questions.

Some other Hon'ble members also spoke on this matter. I stated that I would examine all relevant authorities on the point and give a considered ruling very soon.

At the outset, I might mention that the system of Government as set out in the Constitution under which we are working is that of Parliamentary Democracy. This system of Government envisages a Council of Ministers who are responsible to the Legislative Assembly in respect of the administration. One of the fundamentals of this system of Government, to quote from Herbert Morrison's book on Government and Parliament, is that some Minister of the Crown is responsible to Parliament and through the Parliament to the public for every act of the Executive. He proceeds further to state,

> "this is a corner-stone of our system of Parliamentary Government. There may, however, be an occasion on which so serious a mistake has been made that the Minister explains the circumstances and processes which resulted in the mistake particularly if it involves an issue of civil liberty or individual rights. Now and again the House demands to know the name of the officer responsible for the occurrence. The proper answer of the Minister is that if the House wants anybody's head it must be his head as the responsible Minister and that it must leave him to deal with the officer concerned in the department."

During the debate in the House of Commons on the 20th July 1954, on the Report of Sir Andrew Clerk on the public enquiry into the disposal of land at Cricheldown, the Minister for Agriculture and Fisheries whose department was the subject of the enquiry stated as follows :—

> "First I should like to say a word about the conduct of civil servants concerned. General issues of great constitutional importance arise in this regard. My Rt. Hon. and learned friend the Secretary of State for the Home Department and Minister for Welsh Affairs will deal with them when he speaks later in this debate. I am quite clear that it would be deplorable if there were to be any departure from the recognised constitutional position. I as Minister must accept full responsibility to Parliament for any mistakes and inefficiency of officials in my department, just as when my officials bring off any successes on my behalf, I take full credit for them."

Later on he did refer to the disciplinary action that he had taken against the civil servant as a result of the public enquiry, and he finally announced that he had tendered his resignation to the Prime Minister in view of the fact that he had to take responsibility for the action of his subordinate.

Mr. Herbert Morrison who participated in the debate also referred to this intimate relationship between the Minister and the Civil Service and observed that they all had responsibility to the public, both the minister and the civil servants through the Minister. He continued,

> "I remember one or two cases where it was thought that we had done something wrong and where

I had admitted it and had said that the responsibility was mine. I said that if the House wanted anybody's head, it was my head it wanted. Hon'ble Members wanted to know who was the officer who had gone wrong and I stated that I was not disposed to say, that I would deal with him—and I did—and that if the House wanted anybody's head on a charger, mine was the head it should have, that is the right constitutional doctrine. If we get away from it, we shall go wrong. Therefore, at the end of the day, the Minister is responsible."

The Secretary of State for the Home Department and the Minister for Welsh Affairs, Sir David M'cswell Fyf also spoke about the relationship between the Parliament, the Ministers and the Civil Services.

I do not want to quote his speech at length except to say that he also expressed the view that constitutionally the Minister remains responsible to Parliament on the one hand and on the other hand, the Minister has the power to control and discipline his staff.

I have referred to this constitutional principle at some length because this is one of the principles which will help us in determining the point at issue.

The second principle which is also relevant and will assist us in reaching a decision is one which is more in the nature of a convention. This principle is to the effect that the best usage of a legislature is to refrain from making attacks in the House on people who cannot answer back, that is, who are not in the House, and therefore, not in a position to defend themselves.

On the 24th March 1952, Mr. Baker White asked the Secretary of State for Foreign Affairs for how long he proposes to retain Mr. H. D. Walston as an unpaid Agricultural Adviser of his Department. Mr. Eden, who was replying said,

"Mr. H. D. Walston holds no position of any kind in the Foreign Office. He was the Agricultural Adviser to the Chancellor of the Dutchi of Lancaster, who was then responsible for the German Section of the Foreign Office from 1947 to 1949. The appointment was on a part-time unsalaried basis and lapsed on 20th May, 1949."

The following supplementary was then asked:

"Would my Rt. Hon. Friend bear in mind that if he requires any similar advice for his department in the coming months or years, there are many Cambridgeshire farmers far more qualified than Mr. Walston."

At this stage an objection was taken in the following terms:

"Is it not most undesirable that the order paper of the House of Commons should be used for the purpose of a quite grotesque attack on a gentleman who has given service in the past under the Government in an unpaid position and that such slurs should be made by the Hon. Member."

The Speaker thereupon ruled, "the question on the Order paper contains no attack on any one. It is in the supplementary question that some suggestions were made and it is I ought to say not in accordance with the best usage of this House to make attacks in Parliament on people who cannot answer back."

This principle, that persons who are not in a position to defend themselves should not be subjected to attack, has been laid down repeatedly in the Lok Sabha also with reference to officers of the Government as well as others. I would like to refer only to one or two of them.

On the 30th March 1953, an Hon. Member of the Lok Sabha was commenting on certain reports that she had received from her women friends in Delhi that Police got into their houses at dead of night, broke open their bed-rooms and the like. A point of order was raised asking whether the Member was talking from personal knowledge or from reports. The

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member stated that the information was from her friends. The Deputy Speaker then observed that the Hon. Member was making serious charges, to which the Lady Member replied, I am asking whether they are true. The Deputy Speaker thereupon ruled as follows :—

"There is no question of making such statements merely on the floor of the House and asking whether they are true. With respect to these matters, I always expect of every hon'ble Member here, that before he or she wants to make such allegations, the hon'ble Minister should be informed of them that, these are points that I am going to refer to so that he may be able to reply to them on the floor of the House. Otherwise, it creates an impression here. It may be true or it may be false. The Hon'ble Member proceeds on the basis of some information, while the Government have some other information. Therefore let not allegations be made which may not have a foundation. I do not say that the hon'ble Member has not got that, but for the hon'ble Minister to be able to reply, he should be informed beforehand, saying 'these are the points, one, two, three, that I am going to raise' not with respect to the general points, but with respect to charges against individuals or with respect to the manner in which officials have conducted themselves. I always expect that the Minister may be given some notice regarding these points, so that he may be able to find out and say whether the information is wrong or not, and we need not have in the proceedings information which is exaggerated or wrong."

When a member asked, whether it would not amount to a new procedure, the Deputy Speaker proceeded to state :—

"True. I am here to see that the procedure adopted in this House is fair and proper. We are watched not only here in this House but outside in the whole country as well. There need be no hesitation to make any representation or any allegation against Government which is true. After all, the hon'ble Members are here to correct the Government, and expose whatever weaknesses there are, but any exaggeration would prove dangerous. Under these circumstances, I would like, so far as facts are concerned, whatever be the inferences with respect to those facts, that the other side also may have an opportunity. There are precedents for this, and if the hon'ble Member wants to see them, I will show them."

Later on the same day, when the Deputy Speaker was asked to give a ruling as to whether it was in order to attack officers by name who were not in the House to defend themselves because an hon'ble Member could attack a Minister, but it was not fair nor proper nor consistent with the dignity of the House that officers should be singled out and their names mentioned and all sorts of baseless charges made against them, the Deputy Speaker ruled as follows :—

"Again and again such matters come up before the House with respect to the public conduct of an officer in his public capacity. The House has, no doubt, the supreme right to go into that matter, but before doing so, the usual practice is to write to the hon'ble Minister in charge beforehand, because he cannot be expected to know everything. An officer may be generally good, but in a particular matter may be bad. But all these matters must be brought to the notice of the Minister first, and if even then redress is not obtainable, then of course, this is the last forum for it, and all such things can be brought in."

Thereafter, the following discussion took place:—

"DR. KATJU.—May I suggest that question, starred, unstarred or short notice questions might be put on this ?

Shri BIREN DUTT.—I have put questions. I had put a question regarding a big hartal, but the hon'ble Ministter replied in this House saying that there was nothing of that kind which had happened there.

Mr. DEPUTY SPEAKER.—Another thing also I would suggest. If any hon'. Member wants to raise under any particular motion, or any particular demand, any particular topic or resolution, the question of the public conduct of any particular individual, if he has exhausted all other remedies, then he may kindly inform the hon'ble Minister some time in advance so that the hon'ble Minister may come prepared to answer it.

Shri PUNNOOSE.—In this particular case, he is referring to the conduct of an Adviser to the Chief Commissioner, who is almost at the very level of a Minister there.

Mr. DEPUTY SPEAKER.—It is very difficult for the hon'ble Minister to be knowing this and that, or this man kicking or that man kicking. A small, incident with respect to a big man the Chief Commissioner, is a very serious affair. Therefore, due notice has to be given, so that the Government would be able to find out the truth. I would urge for future guidance, hon. Member would kindly take note of this. Individual cases might be brought to the notice of the Hon'ble Minister. If redress is not obtained, then questions can be put; if even then no redress is got, then there can be a formal resolution or motion on that particular matter, but I would say that hon. Members will kindly inform the hon. Minister in advance that they are going to raise such and such points, so that he might come ready. That will facilitate a full discussion, so far as this matter is concerned."

Similarly, on the 8th of April 1954, when an Hon'ble Member wanted the Speaker to give a ruling as to whether it was in order to make references to individuals who are not present in the House, the Hon'ble Speaker stated as follows:—

"There seems to be some misapprehension, perhaps on my part. I have said many times that it is wrong and it is not fair that any member of this House should refer to names of individuals who are not present in this House and who have no opportunity, therefore, of either explaining the facts to the House or replying to the charge made. I do not know what names were referred to. But, whatever defects were found or believed to exist by the speaker who spoke, he could criticise the Minister without mentioning the names. It is the Minister who is responsible to this House and the officers who are acting under him must not come into the purview of the discussions in the House. If that has been done, I wish it was stopped there and then. If it was not stopped and it has gone out, I do not see how to avoid again something to be said in defence of those people."

"PANDIT BALAKRISHNA SHARMA.—Thank you very much.

Mr. SPEAKER.—That is the difficulty which I am feeling. I hope Hon'ble Members in future will take care to see that such a situation does not arise.

There is a rule also on this question. But it appears members are forgetful of the rules and sometimes in the heat of the debate, some allegations in speeches are made. All that I would like to do again is to appeal to members not to refer to any names and—I do not mean it is a threat; I give it as a notice to members—in case this is violated, the Hon'ble Member who does that will not be able to catch the Speaker's eye so long as I am in the Chair.

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Dr. SURESH CHANDRA.—Should not that Hon'ble Member be asked to withdraw those remarks and allegations which he made against those persons who are not Members of the House?

Mr. SPEAKER.—Only I am making a distinction between allegations made which refer to the administration and persons who were responsible for such a kind of thing in respect of which the allegations were made. I think a Member while criticising the policy of the Government is entitled to give out his views and make the allegations he thinks are well founded. The mistake lay in mentioning names of particular officers and associating them with these allegations. That should not be done.

Shri FRANK ANTHONY.—On a point of clarification: are we to take it that in criticising the Minister—I am only giving an illustration—a person may say that the Minister has appointed so and sobecause he is related to him—will he be precluded from saying that? We are not making any charge against the person. We are making the charge against the Minister. I am only asking for a clarification.

Mr. SPEAKER.—The Hon'ble Member does not know that I have overruled such questions. He must first come to the Speaker if he wants to make a charge like that. He must be satisfied about the facts and then the allegation can be made. I am not going to permit mere relationship as a charge or a matter of insinuation that mere relationship gives a ground for believing that there has been nepotism. But, it should be the unanimous effort of the Members of this House to see that the prestige of the administration by giving names like that is not lowered and the level of the debate does not go down. That is the whole point.

Dr. SURESH CHANDRA.—The Hon'ble Member yesterday made serious allegations against the Director-General, All India Radio, and made insinuations against that person. He has lowered the prestige of the person. That person has no right to defend himself here. What shall we do now?

Mr. SPEAKER.—I have said that the Hon'ble Minister will do the needful."

2-30 P.M.

I would also refer to a ruling by the Speaker of the West Bengal Legislative Assembly given on the 31st July 1952 to the following effect:—

"Mr. Bose, I have seen the proceedings of the House. It is a long standardised parliamentary practice that because a gentleman named is deprived of defending himself by making a reply in the House, he should not be named. There are thousand other ways, say, by means of sending questions to the department concerned, by which you can raise the matter. It is most unparliamentary to name a particular officer who is not present in the House. That is a standard parliamentary practice."

There is no doubt that Hon'ble Members have the fullest right to debate. Since the ministry is responsible to the House, every member has a right to criticise the administration or any aspect of it. But this right of debate is subject to rules of procedure and conventions. These conventions, as I have indicated by the varied quotations above, require that while on the one hand, any defects in the administration should be brought home to the Minister concerned who is in a position to defend himself, personal attacks against the officers who are not in the House should not be usually made. There may, however, be cases where, in order to bring home certain defects in the administration, it may be necessary to refer to the official misconduct of any particular officer.

In such a case, we have to consider the consequences of an attack against an an officer on the floor of the House which is sprung as a surprise as it were. In such a case, the Minister will not have had notice of the fact that such an attack is going to be made against his own officer. He will not have relevant material with him. He will, therefore, not be in a position either to defend the officer and refute the charges or admit that after enquiry, such allegations are true. There will, therefore, appear in the proceedings and in the Press, a one-sided report of the allegations against the particular officer. I have no doubt that every Hon'ble Member who makes such allegations speaks with a sense of responsibility. But it is conceivable that there may be cases of some error in the information received by the Hon'ble Member on which such allegations are based. There may be cases of *bona fide* mistake. Then what happens is, that the reputation of an hon'ble or respected officer will be dragged into the lime-light, in circumstances which subsequently turn out to be incorrect. After all, we have got to presume that when Hon'ble Members attack officers, they do so, solely and exclusively with a view to improve the administration and not merey for the sake of attacking the individual as such. In this view, it becomes necessary to examine whether there is not some other expedient by which the same purpose of the Hon'ble Member would be served. If the purpose that an Hon'ble Member has in view in attacking an officer or making allegations against him, *viz.*, that the administration and administrative efficiency should improve, could be secured by a different method or by a different procedure, then that procedure has to be adopted. As observed by the Speaker of the Lok Sabha, in the rulings I have already cited, the procedure evolved in all such cases, is to inform the Minister concerned or the Government that the member is in possession of material that a particular officer is not discharging his duties properly. If as a result of the complaint, the Minister finds that a particular officer has been guilty of dereliction of duty and the Minister takes suitable action, the purpose of the Member would be served without any publicity. On the other hand, it is equally possible that the Minister may convince the Hon'ble Member from the records that the charges are baseless, in which case, the member would, I am sure, be the first person to agree that such allegations should not be made in public or on the floor of the House. But if in any particular case an Hon'ble Member has sufficient material either by personal experience or by reliable evidence that an officer has been guilty of misconduct in his official duties, it becomes necessary, before he raises it on the floor of the House, that he should give previous intimation to the Minister concerned so that the Minister in turn may call for records and find out what attitude he should adopt on the floor of the House when the matter is taken up. He may have material to refute the allegations, or he may be convinced that there is sufficient basis for the allegations, in which case, he may order an enquiry or take departmental action. This procedure, while achieving the purpose which a Member has or should have in raising this matter also safeguards the interests of officers who are not members of the House and who are not in a position to defend themselves.

As I indicated the other day, it has been far from my intention to stifle debate or interfere with the rights of members. I am merely anxious to evolve a procedure which will give fullest rights to the members, but will also safeguard the interests of persons who are not in a position to defend themselves.

When I stated that before making allegations, an hon. Member should go to the chambers of the Minister, what I meant was that he should give notice beforehand to the Minister, after having exhausted all the other courses I have set out earlier so that the Minister would be in a position on his side to equip himself with relevant information to assist in the debate and either set out to the House facts refuting the allegations or in case he finds they are true, informing the House of

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the steps he proposes to take to rectify the defects in his department.

As observed by the Minister for Agriculture in his speech in the Cricheldown debate to which I referred to earlier, Hon'ble Members on all sides of the House should help in keeping the civil service outside the political arena and as far as possible avoid exposing officials to public criticism since the Minister is there in the House to take full constitutional responsibility for the acts of his officers. Any correction of misconduct of an official or failure in the discharge of his official duties, must be left to the Minister who has the fullest power to control and deal with his staff. If the civil service is demoralised, to that extent administration suffers.

Of course, in attacking the Minister for misconduct in the affairs of his department, it may be necessary to refer to misconduct or dereliction of duty on the part of officers since it is through the officer that the Minister administers his department. Even in such a case, the procedure I have outlined above, if followed, would serve the purpose in view as well as conform to the principles I have referred to. There may also be cases where the Minister himself may have to reveal the facts relating to any particular incident to the House and in doing so, publicly criticise the civil servants. This aspect of the matter has also been referred to by Mr. Herbert Morrison in his book on Government and Parliament as well as in his speech on the debate on Cricheldown on the 20th July 1954. He however speaks of these as extreme cases, where in fairness to the Minister he has to criticise civil servants because specific ministerial orders have not been carried by them. He is however clear that even in such cases, the principle of ministerial responsibility will apply and the Minister cannot escape from the consequences of the action of his civil servants.

There are also cases where an enquiry has been conducted into the conduct of officers and it is proper that the House should be taken into confidence. These are all, however, in the nature of exceptions which are necessitated by the circumstances of the case and do not take away from the principles that have been uniformly laid down in the several rulings. While the public conduct of officers can, therefore, in these very special and extraordinary circumstances come up on the floor of the House, I am quite clear that the private conduct of an officer cannot be questioned, nor can any attack be permitted against the personal character of an officer except in so far as these matters directly and intimately affect his public conduct and even then, they can be referred to only within the self-imposed restrictions that I have indicated.

I have given a somewhat lengthy ruling because this question has been coming up often and I am anxious that we should all together evolve, by means of healthy conventions, a procedure which will not affect the supreme right of the Hon'ble Members to be fully informed of matters relating to public administration, which will not affect the rights of the Hon'ble Members to watch over and be critical of affairs relating to the administration; but at the same time afford protection to officers who are not in a position to defend themselves and also establish the notion of ministerial responsibility by which it is the Minister who is answerable in this House for all acts of omissions of the departments under him rather than the officers who are answerable to this House, only through the Minister.

Sri M. C. NARASIMHAN (Kolar Gold Fields).—May I suggest, Sir, that this particular ruling may be circulated to members since it seeks to define the ambit of our rights?

Mr. SPEAKER.—I am going to circulate it.

Sri M. C. NARASIMHAN.—Am I to take it that so far as references to individual officers are concerned, they could be made after advance notice is given to the concerned Ministers or is it . . .

Mr. SPEAKER.—I have made the point clear in the ruling itself.